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LIEUT. M. F. MAURY.

SPEECH

OF

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HON. JOHN BELL, OF TENNESSEE,

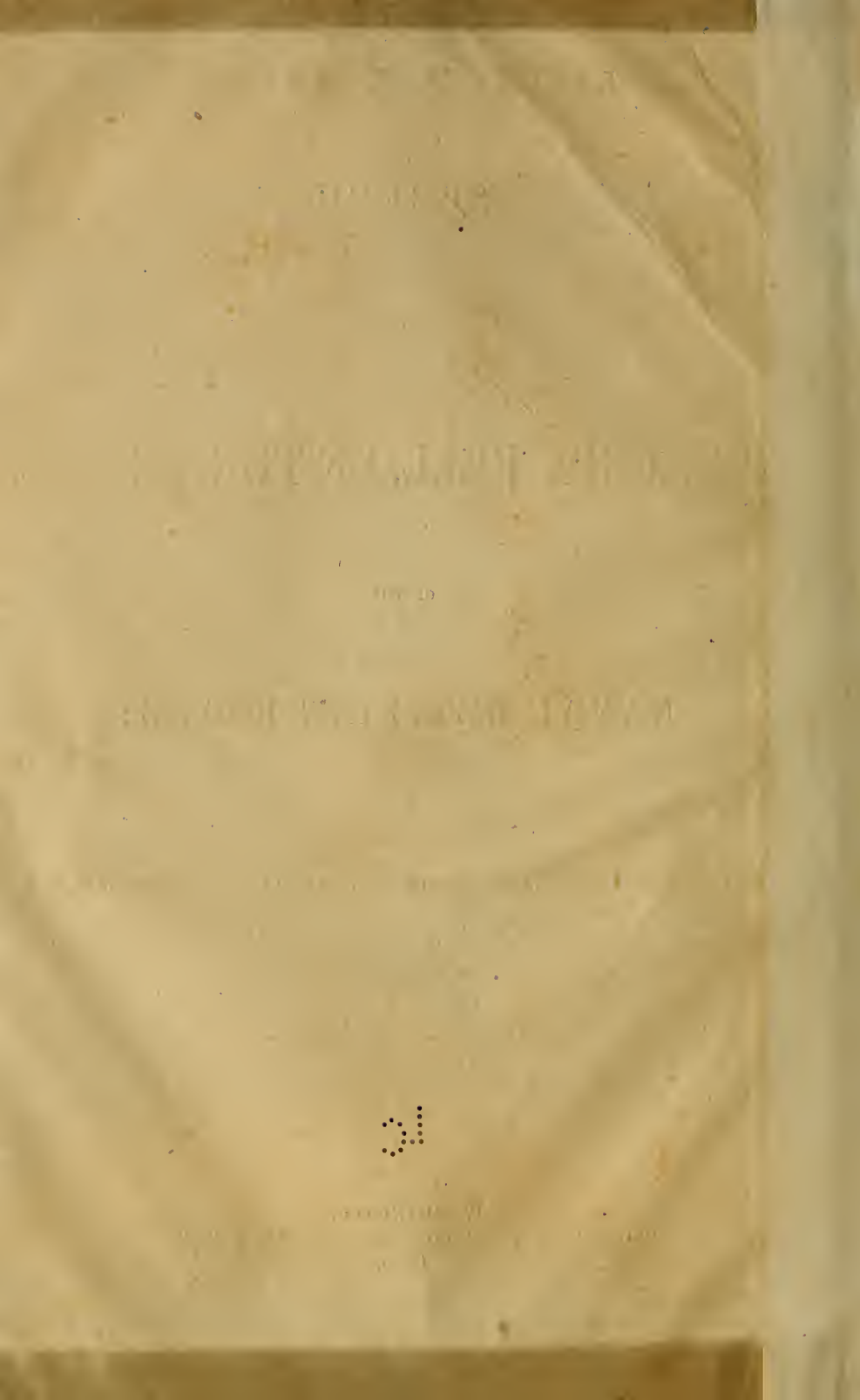
ON THE

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NAVAL RETIRING BOARD;

DELIVERED IN THE SENATE OF THE UNITED STATES, APRIL 28 AND 29, 1856.



WASHINGTON:
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NAVAL RETIRING BOARD.

The Senate having resumed the consideration of the resolutions submitted by Mr. IVERSON, on the 29th of February, for the appointment of a special committee to investigate the action of the late Naval Board—

Mr. BELL, of Tennessee, said: I do not propose, on this occasion, to enter into the general question as to the legality and propriety of the proceedings of the naval board. My object in asking the honorable Senator from North Carolina to give me precedence in making any remarks which I thought proper to submit at this time, was, that I might speak in reference to an isolated point—the case of Lieutenant Maury, which appeared to me to have obtained a prominence, especially by the course of my friend, the honorable Senator from Delaware, [Mr. CLAYTON,] which required some particular attention from me. The consideration of the more general questions connected with this subject I desire to defer until the bill reported by the Committee on Naval Affairs shall come up, when I propose, with the assent of the Senate, to express my views on these questions.

I have to regret that I do not see the honorable Senator from Delaware in his place; for although I propose to make no remarks which could at all be considered personal in relation to the course pursued by that honorable Senator, it would be greatly more satisfactory to me if he were present, that he might hear everything I have to say, and might interpose his corrections or objections, if he found occasion to do so.

Mr. CRITTENDEN. I heard from him on Friday last, that on Saturday he would go to Philadelphia to place himself under the care of a physician there.

Mr. BELL, of Tennessee. It would be much more agreeable to me if I could defer my remarks in relation to the argument submitted by that honorable Senator until he could be present. I will ask my friend from Kentucky if he expressed an expectation that he could be here in any short time?

Mr. CRITTENDEN. Not at all; he does not know when he will be able to be here.

Mr. BELL, of Tennessee. That fact only imposes on me the greater necessity to be cautious in anything that I shall say, and to forbear any sentiment or expression which can be considered offensive to that honorable Senator.

Mr. President, when the proceedings of the naval board were announced to the public, nothing that was done by the board created greater surprise than that Lieutenant Maury had been dropped from the active-service list, and put out of the line of promotion. General astonishment was felt that the board should have considered it their duty, under the law, thus to deal with an officer who had been so generally—not to say universally—regarded as one of the ornaments of the naval profession. Such an announcement was well calculated to excite general attention, and inquiry into the causes which had led to the removal from the active list of an officer of the Navy who stood so high, not only with his own countrymen, but with the enlightened of every country. Except the case of Commodore Stewart, Lieutenant Maury's retirement by the decree of that board attracted greater interest than that of any other officer of the Navy. The honorable Senator from Florida, [Mr. MALLORY,] I perceive, assents to the truth of this statement.

The prominence thus awarded by the public to Lieutenant Maury placed him in a very peculiar and, I may say, in a somewhat hazardous position; for all those who felt, that the public interest required that the action of the Board should be sustained, saw at once that the finding of the board consigning Lieutenant Maury to the absence-leave list, and excluding him from any higher rank in the Navy, required explanation, required defense, required justification. Hence you will see, Mr. President, that every defender of the proceedings of the naval board, and all those who desired to sustain its action, were deeply concerned in showing to the public that the finding of the board in Lieutenant Maury's case was correct, well founded, and vindicated by the true circumstances of his case.

I am sorry, sir, on some accounts, that Lieuten-

ant Maury has been placed in that particular attitude and category in relation to the proceedings of the board and their defenders; for, though he can be successfully and triumphantly vindicated against every imputation which has been, or may be, cast upon his personal or professional honor, or his official competency, his position has exposed him to powerful animosities and resentments, and called forth a course of remark and attack from gentlemen of high standing that but few men in the country can regard with unconcern. Lieutenant Maury stands in such a position in relation to the proceedings of the naval board, that, if the decision in regard to him cannot be successfully vindicated, they, or the members of the board, are in danger of suffering some diminution of the public confidence reposed in them, and cannot expect to be fully supported by public sentiment, or a vote of Congress. The attitude of Lieutenant Maury is a perilous one for any public officer to be placed in. When I presented his memorial to the Senate, Mr. President, I was aware of its character; I regarded it as the emanation of a mind deeply mortified, and indignant that he should have received at the hands of the naval board the sentence of incompetency, placed on the leave-of-absence list, and denied the privilege of future promotion. He had the feelings that were natural to every man of sensibility and honor. He had not expected such a sentence any more than the public generally. It was impossible to restrain, or suppress altogether the indignant, and, if you please, the somewhat resentful expression of feeling natural to every man in his position. Who can conceive that such a man could have had any other feelings than such as I have described? Who can suppose that any friend, or any counsel, any cautious adviser, could have subdued the indignant tone of sentiment which he expressed on the occasion.

If I shall appear, in the opinion of Senators, at any time to be over zealous in the interest I manifest in behalf of Lieutenant Maury, I beg them to remember that when he was appointed midshipman in the Navy he hailed from Tennessee. I knew his family; they were of Huguenot descent. Their principles drove them from France and brought them to this country. Several branches of the family in Tennessee had been my early friends, and it was impossible that I should not take a lively interest in his fortunes.

When I presented the memorial of Lieutenant Maury in the Senate, I found that my honorable friend from Florida [Mr. MALLORY] was well prepared for its reception. I announced my sentiments frankly and freely on that occasion. I stated my opinion on the course of the board in relation to Lieutenant Maury—that they had made a mistake and done him great injustice. My honorable friend was prompt to reply. As soon as I had concluded, he rose in his place, and declared his conviction that, if the board had erred in any case whatever, there was no error in the case of Lieutenant Maury. This showed that my honorable friend was well skilled in the art of fence. My honorable friend remembers it well. He went on to fortify his position and assertion by statements and references to facts and

documents which showed preparation, and that he was not destitute of plausible grounds in taking the position which he assumed.

But my honorable friend forbore to go into offensive particulars or details. He stated generally that, although he did not intend to say on what grounds the board had acted in retiring Lieutenant Maury, he could perceive that it had ample grounds to justify its course. One, and the principal one, was the alleged physical disability of Lieutenant Maury. He further maintained that he had shunned sea service. He said that the sea was a jealous mistress, and required that those who expected to gather trophies in her service should be assiduous and devotional in their attentions.

I shall not misrepresent the honorable Senator in a single particular. He was liberal and generous to a certain extent; but yet I think (although I will not attribute to him any design to be so) he was not quite fair in the presentation of the case of Lieutenant Maury. Other Senators rose in confirmation of the sentiment of the honorable Senator from Florida. My honorable friend from Florida forbore to use those instruments of dissection which are most revolting to the feelings, in chirurgical operations. It remained for my honorable friend from Delaware to announce, as he did by implication in his late speech, that my friend from Florida had been quite too merciful, too tender, too delicate; he was a young surgeon. He warned Lieutenant Maury and his friends, that he had not yet been subjected to the severest operation which his case required. Although he concurred with the honorable Senator from Florida in all that he had said in relation to Lieutenant Maury, yet he had left his work unfinished. The honorable Senator did not say this in terms; but such, I think, is the fair interpretation of his remarks. His purpose was to show that Lieutenant Maury had no claim on the public sympathy; that he had no just ground of complaint against the proceedings of the naval board, or of appeal to the justice of his country, to be restored to his original rank in the Navy. His friend from Florida had been too lenient to Lieutenant Maury. He proposed to bind him down upon the dissecting board, and to exhibit his case in such a light as to demonstrate that he had no pretense for complaint against the decree which had been pronounced against him. It is because I feel bound to make these declarations that I regret exceedingly the absence of my friend from Delaware, [Mr. CLAYTON.] I say this in all sincerity, without any feelings against him personally.

Mr. President, it is obvious to me that it has been supposed by those who propose to vindicate the course of the naval board, and its findings throughout, that it was necessary for them not only to show that the board was justified in its course towards Lieutenant Maury, but that his was a case which admitted of no question. What were the grounds, Mr. President, assumed by the Senator from Delaware to justify the finding of the board in the case of Lieutenant Maury? First, physical disability. Now let us review very briefly the evidence adduced to support that position.

The honorable Senator from Florida had alluded to the trial in Ohio in the suit instituted by Lieutenant Maury against the stage-coach proprietors to recover damages for the severe injury he had received by the mismanagement of their agents; but the honorable Senator from Delaware went into a minute detail of the circumstances of that trial; and he showed, so far as the charge of the judge in recapitulating the evidence in the cause could show it, that Lieutenant Maury received such injuries that he was thereby permanently disabled, and could never hope to recover so far as to be able to perform his duties efficiently at sea. He read the charge of the judge, setting forth the dislocation of the knee, the rupture of the ligaments of the patella, the splitting of the knee-pan, and the fracture of the thigh-bone—all for the purpose of showing that here was a case where it was unreasonable to suppose that Lieutenant Maury could ever be restored to a condition which would fit him for sea service.

The honorable Senator, after referring to the opinion of the surgeon and physician, expressed on the trial, that the injuries Lieutenant Maury had received would produce a permanent disability, proceeded to say, that these injuries were received sixteen years ago; and that, according to the theory and observations of physiologists, a disability or infirmity incurred from such causes must necessarily increase with age; and hence he would have us infer that, at the time of the finding of the board, Lieutenant Maury's disability, or physical infirmities, must have been increased instead of diminished, and that the naval board had no alternative but to place him on the leave-of-absence list.

Such was the first ground assumed by the Senator from Delaware, and such the facts and inferences by which he attempted to sustain it, in order to justify the finding of the board.

Now, sir, let us look a little more closely into the true state of the facts and circumstances connected with the alleged disability of Lieutenant Maury. The physicians and surgeons, in 1840, did certify, and not only certified, but confirmed their statements by the solemnity of an oath, that, in their opinion, Lieutenant Maury was permanently disabled by the injuries he had received. That was sixteen years ago. What are the facts which have been developed since that time, in the physical condition of Lieutenant Maury? We find that although, for seventy days after he had received the injuries in question, he was not in a condition to be removed from one place to another, and his physicians firmly believed that he would never so far recover as to be able to walk without the aid of two crutches, and so advised him; yet, in 1841, we find that he thought himself competent to perform the lighter duties of a lieutenant at sea. In a few years afterwards he had so far recovered that he could walk, with the use of a cane, without any crutch—and for several years, of late, a cane is not indispensable to him. At the commencement of the war with Mexico, he felt himself to be wholly competent to perform the duties of his office at sea, and applied for sea service accordingly. The finding of the board was in 1855; and the question

was as to Lieutenant Maury's physical disability at that time—not in 1840.

The honorable Senator from Delaware seems to have proceeded on the ground that, inasmuch as the physicians and surgeons in 1840 expressed the opinion that Lieutenant Maury was permanently disabled, and could never get off his crutches, he is estopped now from denying that he is disabled. Sir, the question is not whether Lieutenant Maury was disabled in 1840, 1841, 1842, 1843, or even in 1844; but whether he was laboring under such disability in 1855 as disqualified him for the efficient performance of his duties.

The naval board is required by law to make a "careful examination" into the qualifications of officers for efficient service in 1855—not at any anterior period.

I think that even those gentlemen who have sought to justify the board in its finding in this case, on the ground of physical disability, will, when they come to analyze and criticise all the arguments and facts which have been adduced, perceive that they have failed to establish their position. [Adjourned on motion of Mr. MALLORY.]

TUESDAY, April 29, 1856.

Mr. BELL, of Tennessee. Mr. President, I regret exceedingly to have to trespass further on the attention of the Senate, but I feel it my duty to make some further remarks in reply to the honorable Senator from Delaware, [Mr. CLAYTON,] and also to some of those of the honorable Senator from Florida, [Mr. MALLORY.]

Although it might seem that the discussions which have been had on this subject, and the remarks of the honorable Senators, could not, under ordinary circumstances, affect the character of Lieutenant Maury, yet so persistent and so erroneous have been their asseverations and statements in relation to his case, that I believe it is important that a full statement of the facts connected with the charge against him should be made.

I do not propose to recapitulate what I said yesterday except so far as to notice the first ground assumed by the honorable Senators from Florida and Delaware, as a justification of the board in retiring Lieutenant Maury—his alleged incapacity to perform efficient sea service. We know, Mr. President, from the correspondence which has taken place between Lieutenant Maury and the members of the board, that one of their number based his course in relation to Lieutenant Maury upon the evidence adduced, and the finding of the jury, in the cause instituted by him in the Ohio circuit court. How far it may have influenced the other members of the board we have no knowledge. In fact, the object of the investigation which Lieutenant Maury seeks by his memorial is that the true ground upon which he was removed from the active list and put out of the line of promotion may be made known.

As to the temporary disability of Lieutenant Maury, nobody has ever denied it. He never denied it himself. All the facts stated by the Senator from Delaware, and upon which he rested

the case, so far as the physical disability of Lieutenant Maury was relied upon, were confined to the period during which Lieutenant Maury and all his friends admit his disability, either partial or absolute. That period may be said to have extended from 1839 to 1844. The question is not, what was the condition of Lieutenant Maury in those years, but what was his condition in 1855, when he was retired? The question was, whether, in 1855, Lieutenant Maury was capable or incapable of performing efficiently his duties at sea, as well as ashore? The question was not, what were the opinions of physicians and surgeons as to his capability for such service twelve or fifteen years ago; but what opinions they would have pronounced in 1855? Reasonable efficiency and promptness is all that is required of officers generally. As to the greatest efficiency, that has never been made a question, and could not properly and rationally be made one.

But the honorable Senator from Delaware, instead of marching up and grappling with what was the real question before the board in 1855, contented himself by stating Lieutenant Maury's condition as it was prior to 1844, and evaded any notice whatever of the omission of the board to examine, as was their duty, into the physical ability of Lieutenant Maury in 1855, though Lieutenant Maury and half a dozen naval surgeons were in the city while the board was in session.

To supply this manifest deficiency in the chain of evidence required to make out a case of disability in 1855, the honorable Senator thought it sufficient to advance the theory, that the infirmity or disability produced by the injuries received in 1839 would necessarily be increased by age. Well, sir, why was no examination instituted to verify this theory in its application to the case of Lieutenant Maury? Why, sir, Lieutenant Maury had not attained the age of fifty years. He is yet in the very prime of life, and no symptoms remain of his former disability, except that he limps slightly.

The honorable Senator from Florida, as well as the Senator from Delaware, appear to have convinced themselves that it would not do to rest the vindication of the board upon the ground of the disability, however complete, under which Lieutenant Maury labored some twelve or fifteen years ago. And what next did they do to fortify that position, not being able to stand on that alone? Why, sir, desuetude—nonuser of professional exercises—to use technical terms. Lieutenant Maury has not been to sea, says the honorable Senator from Florida, for sixteen years. In order to make that statement exactly correct, he had to include the interval from the time of the finding of the board, in 1855, and the 4th or 6th of January, 1856. My friend from Delaware stated that it was twenty-one years since Lieutenant Maury had his "jacket wet" on board a man of war.

Admit the fact as stated, that Lieutenant Maury had performed no sea service for a period of sixteen years, he has been employed during fourteen years out of the sixteen under the authority and orders of the Navy Department, and most usefully and honorably for the benefit of

the country; but that is neither here nor there. The question, they say, is efficiency; and he has been so long absent from sea, that he cannot be presumed to be capable of performing sea duty efficiently, should he be ordered on such service. That is the argument.

How does that argument consist with the findings of the board in relation to several other officers of the Navy, many of whom have been continued on the active list who have performed less sea duty, in proportion to their whole term of service, than Lieutenant Maury, and one of whom who entered the service about the same time, and did less sea duty, has been actually promoted over his head. But, says my friend from Delaware, Lieutenant Maury has performed no service on board a man of war, for twenty-one years past; and how is this made to appear? The statement contradicts the Register which I have before me. Why, says the honorable Senator, Lieutenant Maury was employed, during a portion of the time for which he has credit for doing sea service, on board a schooner in the revenue service. How the honorable Senator from Delaware got his information on this point I do not know. It is not usual for him to be mistaken so greatly in point of fact. I am authorized by Lieutenant Maury to say, that he never was a day in the revenue service; he never served on board a schooner belonging to the revenue service, nor has he ever been in any service except the naval service of the United States. During a small part of his nine years and eight months service at sea, and before he was placed on special service at Washington, he was employed in surveying duties on board a vessel belonging to the naval service.

But it seems that the honorable Senator from Delaware does not consider such employment at sea as proper to be set down to the account of professional experience in the case of Lieutenant Maury. If that be the true sense of the subject, then one of the officers of the Navy, who has been named by the Senator from Delaware apparently by way of invidious comparison with Lieutenant Maury, had had no practice in the proper duties of his office at sea for a period of twenty-four years before the sitting of the board in 1855; and if the time he was employed in surveying duties is not to be considered as evidence of his efficiency for sea duty of a different description, he could not claim to possess even as high qualifications as Lieutenant Maury; yet he was retained on the active list by the finding of the board. Then it is manifest that the honorable Senators from Florida and Delaware are groping in the dark, when they suppose that they have discovered the true grounds on which the board proceeded in retiring Lieutenant Maury. It is scarcely credible that the board could have supposed that such a man as Lieutenant Maury could have lost the knowledge of his profession acquired in nearly ten years of active service at sea, whatever may have been the interval between the date of his last service at sea and the finding of the board; but if he was retired upon that ground, then I should like to be informed upon what ground the board can be vindicated from the charge of par-

tiality and favoritism in adopting one rule of decision in his case, and a different one in respect to others?

But it is clear, from the course of the argument of the honorable Senators, that they have not felt any confidence in the sufficiency of either of the causes they have assigned to justify the finding of the board in the case of Lieutenant Maury—the disability proved to have existed sixteen years ago, and his long absence from sea service under the orders of the Department. They appear, however, to have supposed that, by combining the two together, and bringing in other circumstances, they might eke out some sort of defense; but not feeling the fullest assurance upon that point, they then come forward with another charge. They say that Lieutenant Maury has shunned sea service; that he had selected service on shore, and has turned his back on the sea. This charge was made by my friend from Florida on the day Lieutenant Maury's memorial was presented to the Senate. The statement was, that Lieutenant Maury had been relieved from orders to sea, on his own application, first in 1837, again in 1838, in 1840, and in 1841; but the Senator gave no explanation of the attendant circumstances.

My friend from Florida took me by surprise in making this statement. I was not able to answer a charge so seriously affecting Lieutenant Maury's standing. I had not been advised by him, nor had he ever dreamed, that he was obnoxious to any such imputation as that of having shunned the performance of sea service; and it so happened, on a subsequent day, when this charge was repeated by the Senator from Florida, and when I was fully prepared to have refuted successfully any inference from the facts stated by the Senator from Florida, inconsistent with the most perfect devotion of Lieutenant Maury to the duties of his profession, that I did not get the floor.

Now, sir, what is the true state of the facts upon which my friend from Florida was led to a conclusion so disreputable to the professional standing of Lieutenant Maury? In 1837 he did apply for a furlough to attend some private business, and by the Department it was readily conceded to him; but at the end of three months, or a little more, from the receipt of this furlough, he applied for active service, and was thereupon attached to the exploring expedition then being fitted out under the command of Commodore Jones. Lieutenant Maury was then, I believe, the junior lieutenant of the Navy, and a position was assigned him inferior only to that of the command—that of astronomer and hydrographer. In 1838 Commodore Jones was detached from the command of that expedition, and Lieutenant Wilkes was put in charge of it.

Lieutenant Wilkes, it was understood, wished to reorganize the expedition; and Lieutenant Maury, with a highly proper sense of delicacy, asked to be detached from that service; but on the very day that he was relieved from service in that expedition, he applied for orders to sea; and to show that I am not mistaken I will read his letter to the Department in which he made this request:

Lieutenant Maury to the Secretary of the Navy.

JUNE 9, 1838.

SIR: I acknowledge the receipt of yours of yesterday, by which I am relieved from all duty connected with the exploring expedition.

Be pleased to consider me an applicant for active service. I would prefer duty connected with hydrographical surveys.

If the Department have no such duty to assign, I request orders to sea.

Respectfully yours, &c.,

M. F. MAURY.

Well, sir, Lieutenant Maury was thereupon assigned to the duty of making surveys of southern harbors. This is the answer to the charge that Lieutenant Maury turned his back upon the sea in 1838.

It is urged that Lieutenant Maury was relieved from orders to sea again in 1840. The charge is true; but how unjust to make such a charge without any explanation of the circumstances under which he was so relieved. But a few months previously Lieutenant Maury had received those severe injuries which have been so much commented upon. He had so far recovered as to be able to accomplish his journey to New York, where the vessel was fitting out which he was ordered to join, but having to be carried on a litter from Ohio across the Alleghany mountains in the dead of winter, the vessel had sailed before his arrival, and he could then only walk with the aid of two crutches.

In 1841, Lieutenant Maury flattered himself that he was able to perform sea duty, but fearing that the intervention of his family and friends might defeat his application, went from his residence at Fredericksburg, in Virginia, to Richmond, and addressed a letter to the Department from that point, a copy of which, with the leave of the Senate, I will read:

Lieutenant Maury to the Secretary of the Navy.

RICHMOND, (VIRGINIA,) June 10, 1841.

SIR: Notwithstanding my crippled condition, I think I should be able to perform any of the lighter duties at sea, which do not call for much bodily exercise, as of flag lieutenant, for instance, to which office in the Pacific Squadron Commodore T. Ap C. Jones has signified a desire that I should be appointed.

That duty, or any other elsewhere, to which I am able, and with which the Department may see fit to intrust me, shall be undertaken with pleasure.

Respectfully, &c.

The Secretary of the Navy promptly responded to the application of Lieutenant Maury in this letter, by ordering him on the service he desired; but Judge Lomax, a distinguished ornament of the bench of Virginia, together with three of the most eminent physicians of Fredericksburg, hearing from some source that Lieutenant Maury had made application for sea service, without his knowledge addressed the Department a letter, remonstrating in strong terms against the propriety of yielding to Lieutenant Maury's application. I have a copy of that letter in my hands, which, together with the correspondence which ensued between the Secretary of the Navy and Lieutenant Maury, which I propose to read:

Judge Lomax to the Secretary of the Navy.

FREDERICKSBURG, November 11, 1841.

DEAR SIR: I, with other friends of our worthy townsman, Lieutenant M. F. Maury, feel much apprehension of permanent, if not fatal evils, which he may possibly suffer if his zeal for the service should be indulged by the Navy

Department in ordering him to join the Pacific squadron which is shortly to sail. We, who see and know the bodily infirmity which he is still suffering, from a severe fracture of his thigh, about two or three years ago, believe that he is utterly incompetent to any duty requiring any considerable bodily exertion, and such will doubtless be his duty in the contemplated cruise. I inclose to you a certificate of the best physicians in this place in regard to Lieutenant Maury's condition. Lieutenant Maury has no idea of this officious voluntary interference I am now making in his concerns; and it is extremely probable that, if it were known to him, it would receive his utter disapprobation, as tending to contravene his own wishes and to disappoint his zeal for the performance of his public duty. I have taken the liberty to bring this subject to your notice, in order that I may save a friend from dangers that may prove most calamitous to himself and family, and to preserve to the country the services, in some other station or upon some other occasion, of a most valuable officer.

I would be glad, if convenient, that some communication could be had about this matter with Commodore Thomas Ap Catesby Jones.

Respectfully, &c., &c.

The Fredericksburg Physicians.

We, the undersigned, having learned that Lieutenant M. F. Maury has been ordered to join the Pacific squadron, beg leave respectfully to state to the Secretary of the Navy that the service contemplated would, in our opinions, exert a most unfriendly, and, probably, a permanent, influence on his health and usefulness.

The injury which Lieutenant Maury some time since sustained still renders it necessary that he should avoid violent exercise and exposure to a variable climate. Of consequence the hardships incident to a protracted voyage in his professional capacity, and especially during the approaching season, would involve great hazard of inflicting lasting disability, and mar the beneficial effects which time and attention are operating in his favor.

We do not, therefore, hesitate to express the opinion, that regard for the welfare of Lieutenant Maury, and to his future value to the Navy, alike indicate the propriety of his avoiding sea-service for the ensuing winter.

It may be proper to add that this statement is made without the knowledge of Lieutenant Maury, who we know would not shrink from any duty he might be required to perform, and whose zeal in the service would prompt him to encounter greater exertions than prudence would sanction.

WILLIAM BROWNE, M. D.,
GEORGE F. CARMICHAEL, M. D.,
B. R. WELLFORD, M. D.

Secretary of the Navy to Lieutenant Maury.

NOVEMBER 15, 1841.

SIR: The accompanying letter from Judge Lomax, and certificate of Drs. Brown, Carmichael, and Wellford, are inclosed to you, with the request that you will make known to the Department your own wishes upon the subject.

Respectfully, &c., &c., A. P. UPSHUR.

Lieutenant Maury to the Secretary of the Navy.

FREDERICKSBURG, (VA.) November 18, 1841.

SIR: In reply to your letter of the 15th instant, and its inclosures herewith returned, I beg leave to say, that the opinion expressed by my friends, Drs. Brown, Carmichael, and Wellford, induces me to violate a rule of my own, by asking to be relieved from orders to sea.

Respectfully, &c., &c.

Secretary of the Navy to Lieutenant Maury.

NAVY DEPARTMENT, November 22, 1841.

SIR: In consideration of the representation made by Drs. Brown, Carmichael, and Wellford, as to the state of your health, and agreeably to your request of the 15th instant, you are hereby relieved from your orders to the frigate United States.

Respectfully, &c., &c.,

A. P. UPSHUR.

The close of this correspondence shows, indeed, that Lieutenant Maury was relieved from orders to sea at his own request in 1841, as charged

against him; but who can pretend that he thereby furnished any evidence of a disposition to turn his back upon the sea? It appears, then, from the explanations I have given, that in a period of thirty-one years, since Lieutenant Maury entered the naval service, he has been relieved from sea duty, for his own personal convenience, only for a little upwards of three months.

But my friend from Florida, as a further proof that Lieutenant Maury had shunned sea service, asserted that he had sought the position which he now occupies at the Observatory. Lieutenant Maury, seeing this statement in the reported remarks of my friend from Florida, complained of the injustice done him, and addressed him a letter, explaining that his application to the Department in 1842 was to be considered as an application to be placed in the charge of the Bureau of Hydrography, which was proposed to be established by a bill then pending in Congress, should it become a law; but that the proposed measure had failed to receive the sanction of Congress. When the Senator from Florida afterwards had the floor on this subject, he sent this letter to the Clerk's table, to be read to the Senate. He accompanied it with the remark that he sent it "to the Chair to be read for what it is worth;" which I do not think comported with the kindness and courtesy which usually marks the course of the Senator.

Mr. MALLORY. I made the remark afterwards in what I said on the subject.

Mr. BELL, of Tennessee. I remember the remark, but I cannot say what was the precise time it was made. I do not mean, however, to be discourteous or offensive to the honorable Senator in noticing this remark. My object is merely to do justice to Lieutenant Maury. The honorable Senator, in the course of his remarks on that occasion, reiterated his former statement that Lieutenant Maury had applied to be relieved from sea duty in 1837, in 1838, in 1840, and again in 1841, without any explanation of the attendant circumstances; and he added that "he took it for granted that that statement was correct, as it had not been denied." I have it from Lieutenant Maury, that when he complained to the Senator from Florida of the injustice done him in stating that he had sought his present employment, although he knew that there were circumstances attending the several applications to be relieved from orders to sea, charged by the honorable Senator, which would relieve him from all censure, yet he was not sure that the evidence of those circumstances was to be found on the files of the Department; and he was not willing to deny the statements, of the honorable Senator, or to offer explanations, on his personal authority simply. He was unwilling to risk his word against that of the Senator from Florida, who, he supposed, had obtained all the information there was in the Department upon the subject. I have no doubt that the Senator did place before the Senate all that the Department furnished him with on this point.

Mr. MALLORY. Will my friend from Tennessee permit me to say a word in this connection?

Mr. BELL, of Tennessee. Yes, sir.

Mr. MALLORY. I hold that when a Senator

on the floor makes an error in a statement to which an individual may deem that he has a proper exception, it is his (the Senator's) duty, and he will spontaneously do justice whenever he finds that he has committed an error. When Lieutenant Maury brought to my attention the fact that he never applied for the position which he now occupies, he admitted at the same time that he had applied for employment at the head of the Bureau of Hydrography, which was then about being established. The Bureau of Hydrography was subsequently merged in the Bureau of Yards and Docks; and the law placed a post-captain at the head of it, which excluded Mr. Maury entirely. He subsequently received his position at the head of the depot of charts and instruments, which has grown up into the present Observatory.

When Mr. Maury made this statement to me, I requested him to put it in writing, lest I might, in submitting any explanation in his behalf, commit some slight error which would not do him justice. With the understanding that whatever he did put in writing I would most cheerfully communicate, he reduced his statement to writing, and it was presented by me in order to do him justice. I remarked at the time, that I did not see that the letter materially altered the statement which I had before made, because the gist of the statement was that he had applied for shore duty. He admitted that he had done so, as I understood; but instead of the shore duty being at the Observatory, as I before stated, it was at the Hydrographical Bureau. This was all the correction; I had no other papers before me—no other statement to correct.

Mr. BELL, of Tennessee. I do not charge the honorable Senator with seeking to do any intentional injustice to Lieutenant Maury. He was very zealous in vindicating the board, and maintained strongly that they were justified in retiring him; and among other grounds assigned by the honorable Senator in justification of that finding, he undertook to prove that Lieutenant Maury had avoided sea service, and sought his present employment. That is the point of difference between my friend from Florida and myself. Lieutenant Maury did seek employment ashore in 1842, when his friends did not consider him able to perform sea service. His application failed, for the reason already stated; but a few months afterwards he was put in charge of the old depot of charts and instruments—not upon his own application, but on the recommendation of brother officers.

But, sir, the material point is, that Lieutenant Maury never shrank from sea duty. Neither my friend from Florida, nor my friend from Delaware, in all that they have said, ever did Lieutenant Maury the justice to admit, or notice the fact, that he had applied for orders to sea during the Mexican war, although I had previously brought that fact to the notice of the Senate.

Mr. MALLORY. When was the last application?

Mr. BELL, of Tennessee. During the Mexican war.

Mr. MALLORY. When was the last before that?

Mr. BELL, of Tennessee. In 1841.

Mr. MALLORY. In order that the record may be kept correctly, I will remark here that I understand the matter as the honorable Senator does—that Mr. Maury's application for sea service was made in 1841, and subsequently in the Mexican war. When I made the statement in relation to Lieutenant Maury's applications to be relieved from sea service, they were not spontaneously produced by me, but were responses, on my part, to allegations made on the floor of the Senate by Mr. Maury's friends, who said that he had never declined sea service. I knew that this statement was erroneous. I knew that the Senators who made the statement had not investigated the matter as I had. I responded to prove that fact. I brought it forward in reply to the allegations that he had never declined sea service; and I think I sustained my view thoroughly. In relation to his application for sea service during the Mexican war, I knew nothing about it; but, if I had thought of it at all, I should have known that he did apply because it is a standing rule and usage, that every member of both the military professions of the country is a volunteer in case of war.

Mr. BELL, of Tennessee. I must say to my friend, that I do not think he has sustained his position that Lieutenant Maury shunned duty at sea. When the circumstances are fully considered, it will be found that, on his own application, and for his personal convenience, he was not relieved except in 1837, when he asked for a furlough; and at the end of three months he applied for sea service, and got it.

Mr. MALLORY. He applied for a year's furlough then.

Mr. BELL, of Tennessee. That may be; but he relinquished it after three months and a few days, applied for orders to sea, and got them. Out of thirty-one years' service, three months' absence from sea duty is all that can be fairly charged against him.

I said yesterday that Lieutenant Maury's position in relation to this question is such as very naturally led to extraordinary efforts on the part of the friends of the board to show that he had no just complaint against its finding. His case attracted public attention from the first promulgation of the proceedings of the board. His retirement was as astonishing to the country as to himself. It was almost universally a matter of general regret as well as of astonishment, that an officer of so much distinction at home and abroad should have been disgraced, and put out of the line of promotion by the action of the naval board. Hence it was, that after the honorable Senators had pressed every consideration that could be thought of to maintain the ground that Lieutenant Maury was incompetent, physically, as well as from desuetude, to perform efficient sea service, after having attempted to show that he had turned his back upon the sea and sought employment ashore, my friend from Delaware, distrusting, it would seem, the strength of all these positions, resorted to an argument which my friend from Florida declined to employ. The Senator from Delaware urged, after reading the

report of the trial of the cause in Ohio, that of the two thousand three hundred and twenty-five dollars awarded in damages to Lieutenant Maury by the jury, at least two thousand dollars must have been awarded to him in consideration of the permanent disability established by the evidence. The remaining three hundred and twenty-five dollars, he supposed, might have been awarded to pay for his loss of time and medical expenditures. The argument is, that Lieutenant Maury has no ground of complaint against the finding of the naval board, or to claim any redress from his country against that finding, because he has already been compensated for the loss of his professional prospects by the damages awarded for his broken leg.

Sir, to say nothing of the absurdity of the idea, that \$2,000 would be regarded as a remuneration for a permanent disability inflicted upon a naval officer of such brilliant promise, and then only thirty-one years of age, how does the honorable Senator know that any part of the amount found by the jury was in consideration of the disability alleged to have been proved on the trial? My friend from Delaware is a lawyer, and a distinguished one; and I would ask him, how does he know, or could he know, unless the verdict was special, that the jury allowed nothing for the protracted sufferings of Lieutenant Maury? or will he deny that the jury, in making up their verdict, ought to have made no allowance for the dislocation of the knee, the rending of tendons and ligaments, and the fracture of bones?

The honorable Senator was not content to drop this extraordinary and (he must allow me to say) most illiberal course of argument at this point. But after reciting the judge's charge to the jury on the trial in Ohio, from which it appeared that a medical bill of about two hundred and fifty dollars had been proved in the cause, he proceeded to read a paper furnished from the Navy Department, as early as the 8th of January, and before Lieutenant Maury had presented his memorial, in which it was stated that Lieutenant Maury had been allowed, in the settlement of his account, \$297 for expenditures incurred "in mending leg," to use the phraseology of the official statement; and from these facts the honorable Senator left it to be inferred that Lieutenant Maury had been twice paid for expenditures incurred by him on account of medical attendance—once by the Ohio jury, and again by the Navy Department. The object of the honorable Senator in bringing these facts to the notice of the Senate cannot be mistaken. Now, sir, we know, from what had before been stated, connected with the time (1840) and other circumstances connected with the trial of the cause in Ohio, that Lieutenant Maury could not have been present at it; and I am authorized by him to state that he had never seen or examined the report of that trial, until after he was informed of the finding of the naval board, when his attention was first called to it by the suggestion of a friend, that the suit he had instituted for damages for the injuries he had received might have had something to do with that finding. But, sir, how can the honorable Senator know that the jury included

any allowance for medical expenditures in their finding, or how can any man know that fact, except the jurors themselves?

For very obvious and cogent reasons, it may be inferred that no such thing was done. Lawyers of the first distinction and skill were of counsel for the defendants in that cause, and they must be presumed to have known something of the laws and regulations which prescribe the rights of naval officers in such cases, and by which Lieutenant Maury was as fairly and legally entitled to be repaid his reasonable expenditure for medical attendance, while acting in obedience to orders, as to his regular pay as an officer; and they must be fairly presumed to have urged that argument to the jury. If they were ignorant of those regulations, and did not acquaint themselves with them before the trial came on, they were not entitled to the reputation which they sustained as learned and skillful lawyers. But if the fact could be established that the jury did actually include the medical account exhibited on the trial, that would not preclude Lieutenant Maury from demanding what he was by law entitled to receive from the Government on the same account. It was, to every intent, a legal and subsisting claim against the Government; and he might justly and with honor receive it, though he had been informed that the jury had allowed the same claim in making up their verdict—which, by-the-by, he did not, and could not, know.

The honorable Senator from Delaware also thought it his duty still further to enlighten the Senate and the country, by holding up to their notice the fact, that Lieutenant Maury had, in 1840, applied for and been allowed a pension of \$150, in consideration of the injuries he had received. This claim stands precisely upon the same ground of right with the allowance of the medical charges to which he had been subjected. The law allowed him both; and he had the same right to demand both that Senators have to their traveling and per diem pay. It is proper to state, however, that the pension ceased many years since. Mr. President, I do not know how such statements and arguments arrayed against Lieutenant Maury strike other Senators; but it does seem to me that if he had been a criminal arraigned at the bar of a court of justice, he could not have been treated with more illiberality and harshness than he has been.

My honorable friend from Delaware disavowed—I have no doubt candidly—any intention to attack Lieutenant Maury's personal honor and integrity; but nevertheless the drift of his argument, and his array of circumstances, and the inferences which might be drawn from them, if unanswered or unexplained, were calculated to leave the impression on the public mind that Lieutenant Maury has been guilty of some sort of moral obliquity; or that, by some means or other, he had managed to thrust his hand into the public Treasury, and draw money from it to which he was not fairly and honorably entitled. The policy of resorting to such arguments would seem to be to supply the defects and inadequacy of all the other more legitimate grounds which have been assumed in justification of the finding

of the naval board, and to present a sort of conglomerated testimony which would make its defense complete.

The honorable Senator from Delaware arrayed another, but kindred, class of facts connected with the present employment of Lieutenant Maury, which he supposed would have an important bearing upon the decision to which the public ought to come in relation to the action of the board in his case. The Senator read, from the same official paper to which I have before alluded, that Lieutenant Maury receives \$3,000 per annum salary, as superintendent of the Observatory, when his "pay proper" is \$1,500—that he has besides, a house free of rent, a vegetable garden attached, and a public one-horse carry-all, in which his family occasionally ride about the city; and the Senator estimates the salary and these allowances as equivalent to an annual compensation of \$5,000. The Senator from Florida estimated it at \$4,500. I will not enter into an examination of the correctness of their estimates. The house he occupies, and the kitchen garden attached, and especially if the use of the carry-all be included, may be regarded by some as equivalent to two thousand dollars, but not more than five or seven hundred dollars, according to the taste or judgment of others; but whatever may be the true value of those allowances, I will undertake to affirm that his whole compensation is not more than sufficient for a decent support of himself and family.

But, sir, suppose that Lieutenant Maury's compensation was \$10,000 a year; what would that have to do with the finding of the naval board? Would that be a consideration which ought to have had any weight in deciding upon his competency and efficiency as a naval officer? Or has it come to this, that the loss of professional reputation and the prospect of future promotion in the Navy are to be estimated in dollars and cents?

But, sir, the compensation allowed to Lieutenant Maury, as superintendent of the Observatory, is spoken of by both the honorable Senators who have undertaken to show that he has no just ground to complain of the finding of the naval board, as something altogether exclusive, and out of the usual allowances to officers of the Navy who occupy the principal shore stations. They have never thought it material to remind the Senate that the captains-commandants of our navy-yards have a salary of \$3,500, with a house rent free, and in most cases a vegetable garden attached; that the allowances of superintendents of the naval hospitals and the Naval Academy are upon the same footing; nor have any thought proper to state that every officer of the Navy, when on service at sea, from the grade of midshipman to that of a commodore, besides his regular pay, has his quarters furnished at the public expense; and though he has no kitchen garden attached, he is allowed fuel, lights, rations, and servants—the most expensive articles of living ashore—which Lieutenant Maury has to supply out of his own pocket.

To listen to the speeches of my friends from Florida and Delaware, or to that portion of them

which they have devoted to Lieutenant Maury, one who is not familiar with the provisions of the late law, or who has not considered the effect of the proceedings of the naval board, would suppose that Lieutenant Maury is left in the enjoyment of his position as superintendent of the Observatory, and of the emoluments attached to it, by the liberality of that board. But, sir, the board is entitled to no such credit; and the extent of their generosity towards him, distinguished as he is by eminent service, will be told when it is stated that they recommended him to be placed on the leave-pay list, with a salary of \$1,200, without the hope of promotion or of any increased compensation whatever.

Sir, Lieutenant Maury holds his present employment by the favor and at the discretion of the Secretary of the Navy. He can be removed from it at any moment the Secretary or the President shall think proper. He is, in fact, reduced, by the finding of the board, to absolute dependence upon executive favor for any employment whatever under the Government. I have heard the remark repeatedly made, that there is no danger that Lieutenant Maury will be removed from his present employment. I do not know that; nor can Lieutenant Maury, or any of his friends, feel any such security. I do not believe that the present Secretary of the Navy has any such intention; but, sir, if that excellent officer could be influenced by the representations of my friend from Delaware, he may change his present favorable opinion of Lieutenant Maury. That honorable Senator took some pains to show that Lieutenant Maury had assailed and charged the Secretary with a failure to do "his duty, and with ignorance of the law;" and for that purpose quoted from his memorial this passage: "There is reason to believe that some members of the board misconceived their duty, and took the Secretary of the Navy's regulations for instructions. If so, their findings under them were illegal."

The law, it is clear, gives no authority to the Secretary of the Navy to instruct the board in their findings, but simply to regulate their proceedings. The Secretary has never claimed the authority to instruct; and was it disrespectful in Lieutenant Maury to say that the regulations of the Secretary had been misconceived by the board?

If Lieutenant Maury had, contrary to his duty as an officer, shown disrespect to the Secretary of the Navy, there were laws and regulations by which he could have, and doubtless would have, protected the dignity of his official position without any prompting on the part of my friend from Delaware. But what has the question of Lieutenant Maury's course towards the Secretary to do with the finding of the naval board? If he had been guilty of mutiny instead of an alleged act of disrespect, the board could have had no cognizance of it. It was altogether an *ex post facto* affair; and I can see no motive or object in the remarks of my friend from Delaware, for my part, unless it was to incense the Secretary against Lieutenant Maury, or to prejudice him in the public mind.

My friends from Florida and Delaware, in the course of their remarks on the point of Lieu-

tenant Maury's physical competency to do efficient service at sea, insisted that he could not board a ship. It may be true, that Lieutenant Maury's physical strength may have been slightly diminished by having his leg fractured, but there are degrees of efficiency in all branches of active service among officers dependent upon their relative physical constitution; and what Lieutenant Maury thought of his efficiency in the performance of all his duties he furnished the best evidence of by applying for service in the Mexican war. Mr. Mason was Secretary of the Navy at that time. He is now out of the country. That his successors, Messrs. Preston, Graham, and Kennedy, were not influenced by any opinion of his physical disability in not ordering him to sea during their respective administrations of the Navy Department, I beg leave to read the copy of a letter addressed to each of them by Lieutenant Maury, and their replies:

OBSERVATORY, WASHINGTON, March 26, 1856.

SIR: Will you do me the favor to state why, when you were Secretary of the Navy, you did not order me to sea? Was it because I did not apply? or was it because you considered my services on shore of more value to the country than they would have been at sea?

I make this request in connection with the proceedings of the late naval board; and hope that in this circumstance you will excuse the liberty, and oblige,

Yours truly, M. F. MAURY.

HILLSBORO', (NORTH CAROLINA,) April 7, 1856.

SIR: I regret that my absence from home has delayed a reply to your letter of the 26th ultimo so long after its receipt by my family.

In answer to your inquiry, why you were not ordered to sea during my connection with the Navy Department, I have to state, that I considered your services at the National Observatory of far more importance and value to the country and the Navy than any that could be rendered by an officer of your grade at sea in time of peace. Indeed, I doubt whether the triumphs of navigation, and of the knowledge of the sea, achieved under your superintendence of the Observatory, will not contribute as much to an effective naval service and to the national fame as the brilliant trophies of our arms.

I remain, very respectfully, your obedient servant,

WILLIAM A. GRAHAM.

Lieutenant M. F. MAURY, United States Navy, &c.

BALTIMORE, March 28, 1856.

MY DEAR SIR: I have received yours of the 25th [26th] asking me to state why, when I was at the head of the Navy Department, I did not order you to sea. You ask further, was it because you did not apply, or because I considered your services on shore of more value to the country than they would have been at sea.

I have no recollection of your having applied for sea service, though you may have done so, and I, after this lapse of time, have forgotten it.

From my knowledge of the nature of your scientific pursuits, their usefulness to the country, and your devotion to them, I can say that nothing but such an emergency as left me no alternative would have induced me to withdraw you from your labors at the Observatory by an order to go to sea.

My estimate of the importance of the scientific service required from the officers of the Navy is sufficiently manifested in my report to the President, in December, 1852, upon the organization of a hydrographic corps, to be charged especially with such duties as those to which you have applied yourself with so much advantage to the country and to your own reputation. I still hope to see that subject attract the attention of Congress, and, in the establishment of the corps, to furnish an appropriate occasion to the Government, to avail itself of your services under conditions equally conformable to your wishes and your deserts.

Very truly, my dear sir, yours,

JOHN P. KENNEDY.

Lieutenant M. F. MAURY, United States Navy.

DEAR SIR: Your letter of 26th March was received at my residence during my absence from home on a visit of several weeks, and has, therefore, remained unanswered thus long. I sincerely regret the delay.

When I entered upon the duties of Secretary of the Navy you were at the head of the Observatory, at Washington, as superintendent. The post you occupied is one of the highest importance and interest to the naval service of the United States. Under an able and efficient administration of its duties, it has and will confer important benefits, not only on the Navy, but on the entire commercial interests of the country. It requires, however, that the superintendent should possess the acquirements, habits, and tastes of the scholar and man of science, as well as those of the officer and seaman.

I found you in the office, familiar with all its details, and fulfilling the duties assigned you, with constantly increasing labor, enthusiasm, and success, in the midst of investigations and researches that then promised, as they have since conferred, great practical benefit on the service to which you belong, and lasting honor on the country and age in which you live. No imperative demand for sea service required your detachment from the Observatory; and on no duty, either ashore or afloat, could your services have been as valuable to the country, or as distinguishing and honorable to your profession, as that to which you have been so long assigned.

With the highest consideration and regard, I am your most obedient servant,

WM. BALLARD PRESTON.

Lieutenant M. F. MAURY, Washington, D. C.

The honorable Senator from Delaware neither admitted nor denied that Lieutenant Maury was a man of science, but he seemed to think that his pretensions in that respect are entitled to no great consideration. He stated that, in the opinion of his fellows, there were officers in the Navy even his superiors in science—Wilkes, Davis, Goldsborough, and others, some of whom I know have long enjoyed the reputation of men of science; and the country will rejoice to learn that the Navy can boast many officers who are Lieutenant Maury's superiors in scientific attainments; and when those officers shall have illustrated the nature of science, in its practical application to great objects, more successfully, and with more beneficial results to the whole world, than he has done, I trust that just appreciation of their merits, and the good fortune which has placed them in their present enviable position, will continue to advance them to still higher rank and consideration. But, though it may be true that Lieutenant Maury has his superior in science, does that justify his exclusion from the active list of the Navy, and out of the line of promotion? Lieutenant Maury raises no question of superiority in science between him and his brother officers. He has never set up any such pretensions as the Senator from Delaware rather insidiously ascribed to him, by quoting a sentence from his memorial, and perverting it into a claim to be the impersonation of science. Lieutenant Maury simply claims the interposition of Congress to do him mere justice according to his just deserts, though they may be inferior to those of other officers of the Navy.

Sir, I think it is manifest, from the tenor of the remarks of the honorable Senator from Delaware and others, that they have no just appreciation, or even knowledge, of the extent and value of Lieutenant Maury's public services. Look at a single instance. When the discovery of gold in California gave rise to an immediate, extensive, and profitable trade between the Atlantic States

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